

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr.MP(M) No.382 of 2007.

Date of decision: 2.8.2007.

State of H.P.

..... Petitioner

Vs.

Pankaj Kumar

.... Respondent.

Coram

The Hon'ble Mr. Justice Kuldeep Singh, Judge.

***Whether approved for reporting?* No**

**For the Petitioner : Mr. M.L. Chauhan, Additional
Advocate General.**

For the Respondent : None.

Kuldeep Singh, Judge. (Oral)

The prosecution case is that on 1.12.2002, complainant Ramesh Chand along with Ashok Kumar were going on a scooter No.HP-22-0868, to attend the marriage of the son of Jagar Nath, when they reached near Circuit House, Hamirpur, one Maruti Car A/F came in a high speed and hit the scooter, resulting into injuries on the person of complainant and Ashok Kumar, the pillion rider. It was alleged that accident took place due to rash and negligent driving on the part of the driver of the car who was in inebriated condition. Later on, it was revealed that Pankaj Kumar driver was driving the car. The medical examinations of Ramesh Chand, Ashok Kumar and Pankaj Kumar were conducted. The accused was prosecuted under Sections 279, 337 and 338 IPC and Section 185 of the M.V. Act.

Whether the reporters of the local papers may be allowed to see the Judgment? Yes

...2...

2. The prosecution has examined 10 witnesses in all. The complainant appeared as PW-1. He did not support the prosecution case and was declared hostile. In cross-examination he has specifically denied that Pankaj Kumar accused was driving the car. He has thus totally shattered the case of the prosecution.

3. PW-4 Ashok Kumar in his cross-examination has stated that the person who was driving the car was on his left side.

4. There is no clear and convincing evidence on record to show that the accused was driving the car rashly and negligently. The learned Judicial Magistrate Ist Class, Court No.1, Hamirpur has rightly acquitted the accused. Hence, leave to appeal is rejected.

**(Kuldip Singh)
Judge.**

**August 2, 2007
(sks)**